IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 5TH DECEMBER 2007 / 14TH AGRAHAYANA 1929

Bail Appl..No. 7463 of 2007()

CMP.5721/2007 of J.M.F.C.,KASARAGOD
CRIME NO.280/2007 OF KUMBLA POLICE STATION

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: PETITIONERS/ACCUSED 1 & 2

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1. SUKESH, S/O.NARAYANAN,
AGED 25 YEARS, PATHUVADI HOUSE,
UPPALA, MANGALPADY VILLAGE, KASARAGOD DISTRICT.

2. DAMODARAN.K., S/O.KANTHAPPA,
AGED 23 YEARS, PRATAPNAGAR, MANGALPADY VILLAGE,
KASARGOD DISTRICT.

BY ADV. SRI.SURESH KUMAR KODOTH

RESPONDENTS: STATE

STATE OF KERALA, REPRESENTED BY
SHO, KUMBLA POLICE STATION, THROUGH THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, KOCHI.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.7463 of 2007

Dated this the 5th day of December 2007

O R D E R

Application for regular bail. The petitioners are accused 1 and 2. They face allegation under the Kerala Abkari Act. They were allegedly found to transport 6,000 packets of arrack each containing 100 ml in a Maruti car when they were intercepted by the police on 28/10/2007. They were arrested and they continue in custody from that date. The first accused is involved in one other crime under the Kerala Abkari Act, submits the learned Public Prosecutor.

2. The learned counsel for the petitioners submits that the petitioners are innocent and they may be enlarged on bail. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that considering the nature and quantum of the contraband article seized and the criminal antecedents of the first accused, the State is obliged to oppose the application for regular bail.

3. In the wake of the opposition by the learned Public Prosecutor, regular bail can be granted to the petitioners only if

this court is in a position to entertain the twin satisfactions under Section 41A of the Kerala Abkari Act. I do not find any circumstances which can persuade this court to entertain either of those two satisfactions at the moment. I am satisfied that this petition deserves to be dismissed now.

4. In the result, this petition is dismissed. I may hasten to observe that the petitioners shall be at liberty to move this court for bail at later stage of the investigation, not at any rate, prior to 19/12/2007. The investigating officer shall, in the meantime, make every endeavour to complete the investigation.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007